

- Exhibit F -

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

ABANTE ROOTER AND PLUMBING,
INC., MARK HANKINS, and PHILIP J.
CHARVAT, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

ALARM.COM INCORPORATED, and
ALARM.COM HOLDINGS, INC.,

Defendants.

NO. 4:15-cv-06314-YGR

**SUPPLEMENTAL EXPERT REPORT
OF ANYA VERKHOVSKAYA**

JURY TRIAL DEMAND

Complaint Filed: December 30, 2015

Honorable Yvonne Gonzalez Rogers

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IV. SUMMARY 13

1 I, Anya Verkhovskaya, hereby certify as follows:

2 **I. INTRODUCTION AND SUMMARY OF OPINIONS**

3 1. Plaintiffs' Counsel asked me to analyze call records produced in the above-
4 captioned litigation (the "Action"). I understand that, inter alia, Plaintiffs allege that Defendants
5 violated the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 et seq., by
6 initiating, or others initiating on its behalf, telephone solicitations to persons whose telephone
7 numbers were listed on the NDNCR. Plaintiffs' counsel asked me to identify the telephone
8 numbers that (1) received two or more calls within a 12-month period, as based on call log
9 information, (2) were on the NDNCR at least 31 days prior to the first call, and (3) were not
10 identified as business or government telephone numbers.

11 2. All of the work accomplished in connection with this Supplement Expert Report
12 was performed at my direction and with my supervision.

13 3. In my opinion, Defendants, or others acting on behalf of Defendants, made
14 3,002,373 calls to 393,762 unique residential telephone numbers after those telephone numbers
15 were listed on the NDNCR for at least 31 days and calls were placed to each number at least
16 twice within a twelve-month period.

17 4. In my opinion, names and addresses associated with these numbers and the
18 users/subscribers to these numbers can be ascertained through reliable databases.

19 5. In my opinion, Defendants made calls to Plaintiff Charvat's residential telephone
20 number after his telephone number had been listed on the NDNCR for at least 31 days and calls
21 were placed to his number at least twice within a twelve-month period.

22 **II. EXPERIENCE AND QUALIFICATIONS**

23 6. I am the Managing Director of DRRT. With offices in Miami, Paris, London and
24 Frankfurt, DRRT works with institutional investors in the United States and around the world in
25 all aspects of global securities litigation, loss recovery and securities claims filing. In addition,
26 DRRT offers litigation support services with focus on data management and data analysis. The
27

1 matters stated herein are based upon my personal knowledge or matters known or reasonably
2 available to me.

3 7. I have regularly overseen and directed the analysis of call records and other data
4 sets in my professional experience. A copy of my resume is attached to this report as Exhibit A.

5 8. Plaintiffs have retained me at an hourly rate of \$525 an hour.

6 9. In cases brought under the Telephone Consumer Protection Act (“TCPA”),
7 47 U.S.C. § 227, I routinely analyze call records to identify class members. As part of this
8 analysis, I partner with established and reputable data vendors, such as LexisNexis, Experian,
9 Nexxa Group, Inc. (“Nexxa”), Microbilt Corporation, TransUnion, and others (collectively,
10 “Data Processors”). I have long-standing relationships and prior experience with the Data
11 Processors. The Data Processors are able to provide information via access to numerous records
12 and sources. For example: (i) Nexxa provides information from the National Do Not Call
13 Registry (“NDNCR”), including date of registry, (ii) Experian provides skip-tracing services to
14 identify the most recent address of an individual based on a combination of name, address
15 history, and/or telephone number;¹ (iii) LexisNexis provides information from public and
16 proprietary records, including information regarding whether a particular telephone number was
17 associated with a business or residence and telephone number;² and (iv) TransUnion provides
18 user/subscriber information that identifies the person associated with a particular telephone
19 number as of the date of the call.

20 10. I regularly use these Data Processors in coordinating data analysis prior to class
21 certification and in administering class action settlements, a context in which maximum accuracy
22 and reliability are critical. In my experience, gained over the course of several years of working
23

24 ¹ According to Experian, at www.experian.com/consumer-information/skip-tracing-services.com, MetroNet
25 provides access to comprehensive contact data on more than 140 million households and 19 million businesses with
26 multiple data sources updated regularly to ensure the most accurate, up-to-date information available.

27 ² It is common knowledge within the class action administration industry that LexisNexis is one of the largest
aggregators of public records and proprietary information. Their information comes from governmental sources,
leading credit bureaus, national address databases, national phone databases, utility information, warranty and
subscription information, and thousands of other sources.

with the Data Processors, they provide accurate and reliable information and are regularly called upon to provide this type of information in court-supervised class action settlements, and is information routinely and reasonably relied upon by experts in the field to distinguish business telephone numbers from residential telephones.

11. I provided data analysis utilizing Data Processors' services in TCPA cases that include, but are not limited to those listed on the attached Exhibit B.

12. I have testified in as an expert witness at deposition or trial in the last four years in the cases listed on the attached Exhibit C.

III. ANALYSIS

A. Source Data Files

13. The below listed data files were provided by Plaintiffs' Counsel. I understand these files represent calls placed by, or on behalf of, Defendants (the "Source Data").

Data received in 2016: Alliance Security Data: a) Fonality.zip (contains ALLIANCE_000023 through ALLIANCE_000075.csv) – 53 files; b) RingCentral.zip (contains RINGCENTRAL_000001.csv) – 1 file; and c): TimeWarner.zip (contains ALLIANCE_000076.csv) – 1 file. Nationwide Data: a) Nationwide.zip (contains NATIONWIDE_000012 through NATIONWIDE_000019.xlsx) – 8 files.

- | | |
|-----------------------|-----------------------|
| • ALLIANCE_000023.csv | • ALLIANCE_000055.csv |
| • ALLIANCE_000024.csv | • ALLIANCE_000056.csv |
| • ALLIANCE_000025.csv | • ALLIANCE_000057.csv |
| • ALLIANCE_000026.csv | • ALLIANCE_000058.csv |
| • ALLIANCE_000027.csv | • ALLIANCE_000059.csv |
| • ALLIANCE_000028.csv | • ALLIANCE_000060.csv |

- 1 • ALLIANCE_000029.csv • ALLIANCE_000061.csv
- 2 • ALLIANCE_000030.csv • ALLIANCE_000062.csv
- 3 • ALLIANCE_000031.csv • ALLIANCE_000063.csv
- 4 • ALLIANCE_000032.csv • ALLIANCE_000064.csv
- 5 • ALLIANCE_000033.csv • ALLIANCE_000065.csv
- 6 • ALLIANCE_000034.csv • ALLIANCE_000066.csv
- 7 • ALLIANCE_000035.csv • ALLIANCE_000067.csv
- 8 • ALLIANCE_000036.csv • ALLIANCE_000068.csv
- 9 • ALLIANCE_000037.csv • ALLIANCE_000069.csv
- 10 • ALLIANCE_000038.csv • ALLIANCE_000070.csv
- 11 • ALLIANCE_000039.csv • ALLIANCE_000071.csv
- 12 • ALLIANCE_000040.csv • ALLIANCE_000072.csv
- 13 • ALLIANCE_000041.csv • ALLIANCE_000073.csv
- 14 • ALLIANCE_000042.csv • ALLIANCE_000074.csv
- 15 • ALLIANCE_000043.csv • ALLIANCE_000075.csv
- 16 • ALLIANCE_000044.csv • ALLIANCE_000076.csv
- 17 • ALLIANCE_000045.csv • RINGCENTRAL_000001.csv
- 18 • ALLIANCE_000046.csv • NATIONWIDE_000012.xlsx
- 19 • ALLIANCE_000047.csv • NATIONWIDE_000013.xlsx
- 20 • ALLIANCE_000048.csv • NATIONWIDE_000014.xlsx
- 21 • ALLIANCE_000049.csv • NATIONWIDE_000015.xlsx
- 22 • ALLIANCE_000050.csv • NATIONWIDE_000016.xlsx

- ALLIANCE_000051.csv
- ALLIANCE_000052.csv
- ALLIANCE_000053.csv
- ALLIANCE_000054.csv
- NATIONWIDE_000017.xlsx
- NATIONWIDE_000018.xlsx
- NATIONWIDE_000019.xlsx

Alliance Call Data received in 2017 (18 files):

- VMS1511157.CSV
- VMS1511155.CSV
- VMS1511156.CSV
- VMS1511159.XLSX
- VMS1511154.CSV
- VMS1511150.CSV
- VMS1511143.CSV
- VMS1511142.CSV
- VMS1508023.XLSX
- VMS1511137.CSV
- VMS1511141.CSV
- VMS1511138.CSV
- VMS1511140.CSV
- VMS1511139.CSV
- VMS1511136.CSV
- VMS1504649.CSV
- VMS1505540.CSV
- VMS0721655.CSV

Alliance FTC Call Data Received in 2017 (62 files)

- VMS1515706.CSV
- VMS1515698.CSV
- VMS1515697.CSV
- VMS1515692.CSV
- VMS1515696.CSV
- VMS1515693.CSV
- VMS1515695.CSV
- VMS1515888.CSV through VMS1515942.CSV

14. To perform the analysis, the Source Data, including all relevant data points, was loaded into a sequel database from which further data analysis could occur, queries could be run, and additional data points tracked.

B. Preliminary Qualifying Call Analysis

15. The parameters for the initial analysis are as follows. Identify records within the database to:

- a Exclude any inbound calls;
- b Exclude any calls with a duration of “0” and where there was not an indication of a connection;
- c Exclude any records that do not contain a full 10-digit telephone number;
- d Exclude all calls placed before December 30, 2011;
- e Exclude any calls if placed to a telephone number with an invalid area code;³

³ I removed records with area codes less than 201 or greater than 989.

1 f Exclude calls placed to telephone numbers from the CLS records, which I
2 understand represent records Defendant states show consent;

3 g Exclude records that are duplicate records (applying conservative criteria
4 of telephone number, date and time, truncated down to minutes to identify duplicates); and

5 h Exclude records that did not receive two or more calls within any 12-
6 month period.

7 Results from steps 12a to 12f produced a list of Qualifying Calls Numbers.⁴ Attached hereto as
8 Exhibit D is an overview of the fields and field mapping utilized in the qualifying call analysis.
9

10 **C. National Do Not Call Registry Analysis**

11 16. The Qualifying Calls Numbers were reviewed to identify telephone numbers that
12 received more than one Qualifying Call within any 12-month period, at a time when that
13 telephone number had been listed on the NDNCR for at least 31 days prior to the first Qualifying
14 Call.⁵

15 17. First, the Qualifying Calls Numbers were analyzed to determine which telephone
16 numbers were listed on the NDNCR and, for those records, the date each telephone number was
17 added to the NDNCR. This analysis was performed together with Nexxa. I understand that
18 Nexxa obtains information regarding the NDNCR, including date of registry, from the Federal
19 Trade Commission (“FTC”). I have an Organization ID number issued by the FTC that Nexxa
20 uses to access information available from the NDNCR. Based on my experience, Nexxa provides
21 accurate and reliable NDNCR registration information, and I regularly rely on its analysis.
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24

25 ⁴ I removed records with area codes for toll-free numbers (800, 844, 855, 866, 877 and 888) as a later step.

26 ⁵ This and any subsequent references to 31-day timeframes designate inclusive timeframes, meaning, for example,
27 that a telephone number was on a list or registry for at least 31 full days prior to a subsequent call (so that the call
would have occurred on day 32).

1 18. At my direction, Nexxa was advised that two files would be forwarded for
2 NDNCR analysis.

3 19. A file listing the 1,868,997 Qualifying Calls Numbers was prepared and uploaded
4 to the Nexxa file transfer site (the “FTP”).

5 20. Nexxa performed its analysis and produced an output file (the “Output”), received
6 via FTP, that included whether each telephone number had been listed on the NDNCR and, if
7 applicable, the date the telephone number was added to the NDNCR. Attached hereto as
8 Exhibit E is a spreadsheet containing the Output.

9 21. The Output was then reviewed to identify all Qualifying Call Numbers that were
10 listed on the NDNCR as of 31 days prior to the date the first Qualifying Call made to that
11 telephone number (the “NDNCR Numbers”) and that there was at least one or more Qualifying
12 Call(s) after the first NDNCR-eligible Qualifying Call.

13 22. A total of 402,166 NDNCR Numbers were identified. Attached hereto as
14 Exhibit F is a spreadsheet containing the NDNCR Numbers.

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17 **D. Business Analysis**

18 23. The NDNCR Numbers were reviewed to identify any that were identified as
19 business or government telephone numbers during the relevant timeframe. I understand that
20 LexisNexis has access to information from public and proprietary records, including information
21 regarding whether a particular telephone number was associated with a business, government or
22 residence. At my direction, LexisNexis analyzed the NDNCR Numbers to determine which
23 telephone numbers were identified as business or government numbers during the relevant
24 timeframe. LexisNexis provided information for each telephone number based on the dates of
25 Qualifying Calls to determine if the call was a business or government number at that time. It is
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1 common knowledge within the class action administration industry that LexisNexis is one of the
2 largest aggregators of public data. Based on my experience in this industry, LexisNexis provides
3 accurate and reliable information and I regularly rely on its analysis to administer class action
4 settlements, and is information routinely and reasonably relied upon by experts in the field to
5 distinguish business telephone numbers from residential telephones.

6 24. The NDNCR Numbers were submitted to LexisNexis to identify which NDNCR
7 Numbers were associated with businesses or government.

8 25. The outputs received from LexisNexis were then reviewed.

9 26. A total of 8,404 NDNCR Numbers were identified and removed as either business
10 or government telephone numbers and/or toll-free telephone numbers and 393,762 NDNCR
11 Numbers were identified as residential (the "Residential NDNCR Numbers"). Attached hereto as
12 Exhibit G is a spreadsheet listing the Residential NDNCR Numbers.

13 27. The Residential NDNCR Numbers were then compared to the Qualifying Calls to
14 identify the total number of calls made to them after they had been on the NDNCR for at least 31
15 days prior. A total of 3,002,373 Qualifying Calls were made to the Residential NDNCR
16 Numbers after they had been on the NDNCR for at least 31 days prior.

17 **E. Plaintiff Charvat**

18 28. I understand that Plaintiff Philip J. Charvat's telephone number is 614-895-8940.
19 Plaintiff Charvat's telephone number appears in the Residential NDNCR Numbers. This means
20 that at least two calls in a twelve-month period were placed to Plaintiff Charvat's telephone
21 number 614-895-8940 after the number had been on the NDNCR for at least 31 days.
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F. User/Subscriber Information

29. I can identify names and addresses associated with telephone numbers called by, or on behalf of, Defendants. Specifically, I can identify the user(s)/subscriber(s) of a given telephone number and the address of the user(s)/subscriber(s) for that given telephone number at the time of a specific call.

30. I would use information from reputable data vendors, such as TransUnion, LexisNexis, Experian, Microbilt, Nexxa Group, Inc., and others. I have long worked with these companies and used their database information to identify class members in settlements and for litigation purposes.


31. To obtain such user(s)/subscriber(s) information, I would provide the relevant telephone numbers to the above-identified data vendors. The data vendors would access their databases of public and proprietary information to produce an output including the name and address of the user(s)/subscriber(s) of those telephone numbers at the time the calls were placed.

32. I would also coordinate to update any addresses through the United States Postal Service (“USPS”) National Change of Address (“NCOA^{Link}”) database, which contains approximately 160 million records or 48 months of permanent address changes. NCOA^{Link} is updated daily and USPS regularly provides change-of-address information to NCOA^{Link} licensees. NCOA^{Link} helps reduce undeliverable-as-addressed (“UAA”) mail by correcting input addresses prior to mailing. Additional address updating via Experian’s MetroNet® service would be coordinated for any addresses determined to be undeliverable. Further, I could coordinate with additional data vendors, such as Experian, to identify addresses based upon name and telephone number information for further supplementation of addresses or other information that has not yet been identified.

34. In summary, my opinion is that Defendants, or others acting on behalf of Defendants, made 3,002,373 calls to 393,762 unique residential telephone numbers after those telephone numbers were listed on the NDNCR for at least 31 days and calls were placed to each number at least twice within a twelve-month period.

36. In my opinion, Defendants made calls to Plaintiff Charvat's residential telephone number after his telephone number had been listed on the NDNCR for at least 31 days and calls were placed to his number at least twice within a twelve-month period.

37. I have reached the opinions expressed herein based on a reasonable degree of certainty in the fields of data management, data analysis, class member identification, and claims administration


Anya Verkhovskaya